

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits – Roads & Buildings Department – OA.No.3342/2005 and OA No.3343/2005 filed by Sri Krishna Kannaiah, Deputy Executive Engineer (R&B) and Sri T.A.Ravindra Mohan, Assistant Executive Engineer (R&B) – Implementation of orders of APAT – Further action dropped – Warning issued – Orders – Issued.

TRANSPORT & BUILDINGS (VIG.I) DEPARTMENT

G.O.Rt.No. 685

Dated: 20.07.2010.
Read the following:-

- 1) G.O.Rt.No.350, TR&B Department, dated 02.04.2005.
- 2) G.O.Rt.No.352, TR&B Department, dated 02.04.2005.
- 3) OA No.3342/2005 filed by Sri Krishna Kannaiah, Dy.EE (R&B).
- 4) OA No.3343/2005 filed by Sri T.A.Ravindra Mohan, AEE (R&B)
- 5) From the APAT orders dt.14.12.09 in OA No.3342/2005 with MA No.1692/ 2005 with CA 327/2007 and OA No.3343/2005 filed by Sri Krishna Kannaiah, Dy.EE (R&B).

O R D E R:-

The Government, in the G.O. first and second read above, after conducting a departmental enquiry and differing with the findings of the Enquiry Officer, issued orders for imposing the punishment of stoppage of one increment with cumulative effect on Sri Krishna Kannaiah, Deputy Executive Engineer (R&B) and Sri T.A.Ravindra Mohan, Assistant Executive Engineer (R&B) on irregularity i.e., exceeded the grant allotted in respect of maintenance of and repairs by Rs.14.88 lakhs i.e., 8.33% excess in North Buildings Division, Hyderabad.

2) Sri Krishna Kannaiah, Deputy Executive Engineer (R&B) and Sri T.A.Ravindra Mohan, Assistant Executive Engineer (R&B) filed OA.No.3342/2005 and OA No.3343/2005 respectively before the APAT and the Hon'ble APAT has allowed the above said OAs and made an order, dated 14.12.2009. The operative portion of order as follows:-

"The term misconduct is subject matter of consideration by the Hon'ble Supreme Court in the case of Inspector Prem Chand Vs. Government of N.C.T. of Delhi and Others reported in 2007 (4) SCC 566. The relevant Para-12 reads as follows:-

"12. It is not in dispute that a disciplinary proceeding was initiated against the appellant in terms of the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980. It was, therefore, necessary for the disciplinary authority to arrive at a finding of fact that the appellant was guilty of an unlawful behaviour in relation to discharge of his duties in Service, which was willful in character. No such finding was arrived at. An error of judgment, as noticed hereinbefore, per se is not a misconduct. A negligence simpliciter also would not be a misconduct. In Union of India V.J.Ahmed whereupon Mr.Sharan himself has placed reliance, this Court held so stating:(SCC pp.292-93, para11)

11. Code of conduct as set out in the Conduct Rules clearly indicates the conduct expected of a member of the service. It would follow that conduct which is blameworthy for government servant in the context of Conduct Rules would be misconduct. If a servant conducts himself in a way inconsistent with due and faithful discharge of his duty in service, it is misconduct (see Pierce V.Foster) A disregard of an essential condition of the contract of service may constitute misconduct [see Laws V.London Chronicle (Indicator News Papers] This view as adopted in Shardaprasad Omkarprasad Tiwari V.Divisional

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Superintendent, Central Railway, Nagpur Division, Nagpur and Satubha K.Vaghela V.Moosa Raza. The High Court has noted the definition of misconduct in Stroud's Judicial Dictionary which runs as under:

"Misconduct means, misconduct arising from ill motive; acts of negligence, errors of judgment, or innocent mistake, do not constitute such misconduct."

In the light to the above said Principles, the alleged misconduct of the applicants is to be subjected for judicial scrutiny to decide whether it amounts to misconduct or not.

The applicants are gross root level officers in the Engineering Department. Naturally, their experience and knowledge is limited. Therefore, their function is only to submit the proposals and estimates. As Per charge No.1, they only recommended the estimates for supply for RCC Hume Pipes. If they have committed any mistake in recommending the estimates to supply of RCC Hume Pipes, in the absence of a mala fide intention, it cannot be termed as a misconduct. Absolutely there is no allegation that their action in recommending the estimates is vitiated by any known vices. Therefore, it cannot be termed that the conduct covered by the Article 1 amounts to misconduct.

As per Charge No.2, the applicants alleged to have committed an irregularity of adding unnecessarily leading the estimates for purchase of RCC Hume Pipes. There may be error in judgment but that cannot be misconduct. So, if they have made any proposal due to any mistake or misconception that cannot be termed as a misconduct. Higher authorities are there to scrutinize the same in the light of the standards prescribed and to take a decision to accept the proposal or not. So, the said conduct which is not at all vitiated by any ulterior motives or mala fide intentions or any other vices cannot be categorized as a misconduct.

Therefore, in the light of the cumulative effect of all these circumstances, it cannot be said that the charges against the applicants are proved. Undoubtedly, the conduct alleged covered by Charges 1 and 2 do not amount to misconduct. Therefore, the impugned G.Os finding the applicants in both the O.As for the Charges leveled against them and imposing the penalty are liable to be set aside.

Therefore, O.A.No.3342/2005 is allowed GO.Rt.No.350, dated 2.4.2005 finding the applicant guilty and imposing penalty of stoppage of one increment with cumulative effect is set aside and the applicant is exonerated from the above said charges and he is to be considered for promotion to the cadre of Executive Engineer on par with his juniors and he is entitled for all consequential benefits.

So also, O.A.No.3343/2005 is allowed GO.Rt.No.352, dated 2.4.2005 finding the applicant guilty and imposing penalty of stoppage of one increment with cumulative effect is set aside and the applicant is exonerated from the above said charges and he is to be considered for promotion to the cadre of Deputy Executive Engineer on par with his juniors and he is entitled for all consequential benefits.

3) Keeping in view of the orders of Hon'ble APAT, Government have decided to implement the orders of APAT in O.A.No.3342/2005 and O.A.No.3343/2005 dated 14.12.2009. However, it was observed that adopting a lead of 65 Km for hume pipes to Bapughat, which is in the city is mischievous. The Hume pipes can get within 16-20 Kms around the city. For this lapse, the Government have decided to issue a warning against Sri Krishna Kannaiah, Deputy Executive Engineer (R&B) and Sri T.A. Ravindra Mohan, Assistant Executive Engineer (R&B).

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4) Accordingly, Government hereby cancel the orders issued in G.O.Rt.Nos.350 and 352, Transport, Roads & Buildings (Vig.I.2) Department, dated 02.04.2005 and further action against S Sri Krishna Kannaiah, Deputy Executive Engineer (R&B) and Sri T.A. Ravindra Mohan, Assistant Executive Engineer (R&B) is dropped duly warning for the above said observation.

5) The Engineer-in-Chief (R&B) Administration, shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

D.LAKSHMI PARTHASARATHY
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Individuals.
(Through ENC (R&B), Admn., Hyderabad.
The Engineer-in-Chief (R&B) Admn., Hyderabad.
Copy to
The General Administration (V&E) Department,
BRKR Bhavan, Hyderabad.
The Secretary to VC, APVC, Hyderabad.
The Account General (Pension.I), AP, Hyderabad.
Sf/Sc

//FORWARDED BY ORDER//

SECTION OFFICER